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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fiftieth session

SUMMARY RECORD OF THE 1211th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 20 March 1997, at 10 a.m.

Chairman: Mr. BANTON

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Draft concluding observations concerning Germany

Draft concluding observations concerning Belgium

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Draft concluding observations concerning the thirteenth and fourteenth periodic reports of Germany (CERD/C/50/Misc.16, future CERD/C/304/Add.24, distributed at the meeting in English only)

Paragraphs 1-5

1. Paragraphs 1-5 of the draft concluding observations were adopted.

Paragraph 6

2. Mr. ABOUL-NASR said that once again it was essential to avoid singling out one group of genocide victims and to refer not only to the past but also to current events. The concluding observations must reflect the discussion which had taken place during the consideration of the State party's report. The Committee could express the hope that all past and present victims of racial discrimination would be treated equally by legislation.

3. Mr. CHIGOVERA (Country Rapporteur) said that, in preparing the draft concluding observations, he had endeavoured to take account of all the views expressed in the Committee. In those circumstances, he was prepared to add a sentence reflecting Mr. Aboul-Nasr's comment if the Committee agreed on its wording.

4. Mr. de GOUTTES said he appreciated Mr. Aboul-Nasr's point, but thought it should be expressed in a separate paragraph. In the specific case of Germany, the Committee should express particular concern at the resurgence of neo-Nazi phenomena.

5. Mr. VALENCIA RODRIGUEZ considered that the last sentence of the paragraph should be amended, as it gave the impression that Germany had complied with all the provisions of article 4, which was not quite the case.

6. Mr. GARVALOV noted that the same problem had arisen in the case of the United Kingdom. One could say that the State party had made progress in the implementation of the provisions of article 4.

7. Mr. CHIGOVERA (Country Rapporteur) observed that no one had criticized Germany during the debate for not having complied with the provisions of article 4.

8. Mr. ABOUL-NASR said that it was not a matter of levelling criticism, but giving the impression that there was room for improvement.

9. Mr. RECHETOV agreed that one could not say that all appropriate measures had been taken. He therefore proposed that "appropriate measures" should be replaced by "legislative measures".

10. Paragraph 6, as orally amended, was adopted.

Paragraph 7

11. The CHAIRMAN proposed that, in order to take account of the observation made earlier by Mr. Aboul-Nasr about the victims of genocide and a comment by Mr. Rechetov, who considered it necessary to introduce an element of condemnation of genocide, the following new sentence should be added in paragraph 7: "The Committee trusts that all genocidal acts will be condemned without any distinction; it further hopes that schemes for compensating the victims of genocide and for preventing any future discrimination will cover all groups that have been or might become victims".

12. Mr. GARVALOV considered that it would be desirable to recall that the international community had condemned genocide as a crime against humanity.

13. The CHAIRMAN proposed, in the light of that observation and drafting suggestions by Mr. Aboul-Nasr and Mr. Rechetov, that the beginning of the sentence should read: "The Committee reiterates that genocide has rightly been condemned as a crime against humanity, and trusts that all genocidal acts will be condemned without any distinction as to time, place or group of victims; it further hopes ...". That sentence would constitute the first part of paragraph 7.

14. It was so decided.

15. Mr. VALENCIA RODRIGUEZ suggested that, later in the paragraph, the words "The Committee is persuaded that" should be replaced by "The Committee takes note that".

16. Mr. YUTZIS considered it preferable to say that the Committee "understood" that there was a clear rejection of attitudes of racial discrimination and xenophobia among a considerable proportion of society. It was in fact difficult to draw such a categorical sociological conclusion and to demonstrate that the great majority of society rejected such attitudes.

17. Mr. RECHETOV said that similarly, later in the paragraph it would be preferable to speak of "frequent" and not "general" condemnation.

18. Mr. CHIGOVERA (Country Rapporteur) said that, unless the Committee challenged the German delegation's statement, as confirmed by numerous reports, that the great majority of the population rejected attitudes of racial discrimination, there was no reason to amend the text.

19. The CHAIRMAN said that the problem was that it was impossible to know for certain whether society's attitudes of rejection were permanent in character or whether they constituted a reaction to particular incidents.

20. Mr. GARVALOV pointed out that huge public demonstrations had taken place in Germany recently. The facts must therefore be acknowledged. He suggested that the text should read: "The Committee is aware that". He also proposed that "the great majority" should be replaced by "broad sections".

21. The CHAIRMAN read out the text of the second part of paragraph 7, as amended in the light of the various suggestions made by members: "The

Committee is aware that many spontaneous anti-discrimination demonstrations in German cities, expressions of compassion for the victims of violence and frequent condemnation of xenophobia and racial discrimination in the daily press and other media demonstrate that broad sections of the German public reject xenophobia and racial discrimination".

22. Paragraph 7, as orally amended, was adopted.

Paragraphs 8 and 9

23. Paragraphs 8 and 9 were adopted.

Paragraph 10

24. Mr. GARVALOV considered that that point could also be made in the concluding observations concerning other States parties.

25. Paragraph 10 was adopted.

Paragraph 11

26. Paragraph 11 was adopted.

Paragraph 12

27. Mr. ABOUL-NASR considered that no reference could be made to anti-Semitism without also mentioning all other forms of racism. At present, anti-Semitism in Germany was less serious than animosity towards the Turks. Recently, a number of Turks had been killed by police officers. Persons originating from southern Europe and north Africa were also subjected to racial attacks. He therefore suggested that the words "towards other groups" should be inserted after the words "racial discrimination".

28. Mr. YUTZIS supported Mr. Aboul-Nasr's observations. Anti-Semitism was just one of the many forms of racism and, at present in Germany, it was the Turks who were the main targets of racial hatred. He suggested that emphasis should be placed on the fact that manifestations and acts of violence characterized by xenophobia, anti-Semitism and racial discrimination against other groups occurred in Germany and that they clearly reflected deep-seated prejudices. To that end, he proposed that the word "may" should be deleted from the clause "such manifestations may reflect deep-seated prejudices".

29. Mr. RECHETOV considered that the reference to anti-Semitism should be retained and that the paragraph should be worded in such a way as to refer to other forms of racial discrimination, for example against Turks or Arabs.

30. Mr. GARVALOV stressed that the latest report of Germany related to a recent period during which the Turks in particular had been subjected to racist attacks and some of them had even been killed when their homes had been set on fire. He therefore considered that it should be specified that the xenophobia in question principally concerned Turks. In addition, he suggested, like Mr. Yutzis, that the word "may" should be deleted as it diluted the text.

31. Mr. YUTZIS noted that the Committee was sometimes harsh, not to say unjust, towards small countries; Guatemala was a case in point. In his opinion, members should endeavour to give fuller consideration to certain social situations which occurred in certain States parties, powerful though they might be, especially since there was a danger that those situations might recur in those States.

32. Mr. LECHUGA HEVIA considered that the reference to anti-Semitism should be retained, in view of the rise of neo-Nazi movements in Europe and the United States. However, it should not be forgotten that Slavs and Spaniards had also fallen victim to the Holocaust. He therefore proposed that, after the reference to anti-Semitism, the words "manifestations against other ethnic groups" should be added, since that reflected the current situation.

33. Mr. ABOUL-NASR was of the view that in the concluding observations the Committee should deal with current problems or problems which might arise in the near future, but without forgetting the past. He had no objection to a reference to anti-Semitism, but in that case mention should also be made of the Turks and gypsies. The latter were being subjected to ill-treatment and being deported to Romania with the agreement of the Government of that country, which had received financial compensation in exchange.

34. Reference should therefore also be made to discrimination against the above-mentioned groups, or else the first sentence of the paragraph should be reworded in order to give it a general tone, by deleting the word "anti-Semitism", in which case the concept of racial discrimination would apply to all the targeted groups.

35. He had misgivings about the expression "deep-seated prejudices" which, in a way, levelled charges against a whole people. It seemed to fall into the same category as the statements by the Nazis about the Jews or the gypsies. In a spirit of compromise he would not object to those words, but he expressed a formal reservation about them.

36. The CHAIRMAN observed that the term "manifestation" implied that deep-seated prejudices against certain groups existed.

37. Mr. de GOUTTES considered that the neo-Nazi phenomena which existed in Germany could not be ignored. However, it should be indicated that the manifestations referred to concerned groups other than Semites. He therefore proposed the following wording instead of "Concern is expressed over manifestations of xenophobia, anti-Semitism, racial discrimination": "Concern is expressed over manifestations of xenophobia and racial discrimination, including acts of anti-Semitism and hostility towards certain ethnic groups".

38. Mr. YUTZIS stressed that the word "may" should be deleted. The manifestations in question clearly reflected deep-seated prejudices. They were symptomatic. To say that those manifestations "may" reflect deep-seated prejudices simply seemed to be letting the State party off lightly.

39. Ms. ZOU Deci and Mr. RECHETOV also suggested that the word "may" should be deleted.

40. The CHAIRMAN proposed that the amended first part of the first sentence suggested by Mr. de Gouttes should be approved and that the word "may" later in the paragraph should be deleted.

41. It was so decided.

Paragraph 13

42. Paragraph 13 was adopted.

Paragraph 14

43. Mr. YUTZIS, observing that many Turks had also been subjected to police brutality, wondered whether other groups or nationality should not be mentioned together with Africans.

44. Mr. ABOUL-NASR considered that more Turks were subjected to police brutality than Africans.

45. Mr. de GOUTTES proposed that the words "particularly Africans and Turks" should be included, since according to press reports, those were the two categories that were the most frequent victims of police brutality.

46. Paragraph 14, as orally amended, was adopted.

Paragraphs 15-18

47. Paragraphs 15-18 were adopted.

Paragraph 19

48. Mr. ABOUL-NASR said he did not favour recommending the establishment of "a national institution to facilitate the implementation of the Convention", even if such action was based on a general recommendation of the Committee. In his view, it was preferable to take account of the particular situation of each country and thereby avoid imposing the same model on all States parties.

49. Mr. GARVALOV acknowledged that the Committee should perhaps adapt its suggestions to each country, but emphasized that it must also be consistent and ask the same things of all States parties.

50. Mr. RECHETOV agreed with Mr. Aboul-Nasr. Since paragraph 19 was, in his view, less important than paragraphs 20 and 21, he proposed that it should be placed after the latter paragraphs.

51. In response to Mr. Aboul-Nasr, Mr. CHIGOVERA (Country Rapporteur), supported by Mr. de GOUTTES, proposed that the second part of the sentence should be amended to read: "and suggests that consideration also be given to the establishment of a national institution". In his view, that would facilitate implementation of the Convention.

52. Paragraph 19, as orally amended, was adopted.

Paragraph 20

53. The CHAIRMAN observed that the German State recognized as minorities only national minorities, which were communities established in specific areas, and was not willing to grant the other minorities, namely the ethnic groups scattered throughout the country, the privileges enjoyed by the former.

54. Mr. SHAHI considered that the Committee was entitled to suggest that Germany should grant the same rights to all minorities since the representative of that country had stated that there was no difference between the national minorities and the other minorities with regard to the enjoyment of civil or other rights. However, the Committee must also take account of the difficulties which the German State might encounter in implementing such a recommendation. For that reason he questioned the advisability of that recommendation, especially since it did not say how the State party could overcome those difficulties.

55. The CHAIRMAN pointed out that the German delegation considered the Turks as foreigners and not as a minority, unlike people belonging to the national minorities who had German citizenship.

56. Mr. RECHETOV considered that it would be best to delete paragraph 20, since the matter was too complex. The Danes, for example, did not simply enjoy autonomy; they had their own State. History could not be ignored and a State could not be recommended to do the impossible. Even if paragraph 20 was retained, the situation of the Turkish minority or other minorities could not be improved.

57. Mr. CHIGOVERA (Country Rapporteur) observed that paragraph 20 stemmed from paragraph 13, which had been adopted. He had not been satisfied with the reply which the German delegation had given when he had asked it why former Turkish nationals who had become German citizens had not enjoyed the same protection as persons belonging to the national minorities.

58. The CHAIRMAN said he understood that very few second-generation Turks had acquired German nationality and that most of them were still foreigners.

59. Mr. SHAHI said that, as far as he remembered, the German delegation had stated that 90,000 Turkish immigrants had acquired German citizenship. He supported Mr. Chigovera's proposal.

60. Mr. CHIGOVERA (Country Rapporteur) proposed, with the Chairman's support, that paragraph 20 should read: "The Committee encourages the State party to explore ways of providing specific protection to all ethnic groups living in Germany."

61. Paragraph 20, as orally amended, was adopted.

Paragraph 21

62. Mr. de GOUTTES proposed that reference should be made to xenophobic offences, in particular those committed by members of the police forces.

63. Paragraph 21, as orally amended, was adopted.

Paragraphs 22 and 23

64. Paragraphs 22 and 23 were adopted.

65. The draft concluding observations of the Committee concerning the thirteenth and fourteenth periodic reports of Germany as a whole were adopted.

66. Mr. GARVALOV observed that it would be preferable, in accordance with the rules in force, that the official name of Germany should be reproduced in full, at least in the title of the Committee's concluding observations.

67. The CHAIRMAN said he would ensure that the necessary action was taken.

The meeting was suspended at 12.10 p.m. and resumed at 12.20 p.m.

Draft concluding observations concerning the ninth and tenth periodic reports of Belgium (CERD/C/50/Misc.19, future CERD/C/304/Add.26, distributed at the meeting in French only)

Paragraph 1

68. Paragraph 1 was adopted, on the understanding that the appropriate insertions would be made.

Paragraph 2

69. Mr. VALENCIA RODRIGUEZ proposed that in the fourth sentence the adjective "pluraliste" relating to the Belgian delegation should be deleted.

70. Paragraph 2, as orally amended, was adopted.

Paragraphs 3-7

71. Paragraphs 3-7 were adopted.

Paragraph 8

72. Mr. CHIGOVERA asked what was the purpose of that paragraph. The words "the Committee noted with concern that the status of the Convention was not sufficiently clear in the Belgian legal system" seemed to him to be particularly vague.

73. Mr. de GOUTTES pointed out that it had been stated more explicitly in the original text that the Committee had noted with concern that the status of the Convention was not sufficiently clear because most of its provisions were not of a self-enforceable nature and could not be invoked in the courts.

However, several members of the Committee had proposed the use of vaguer wording, because of insufficient knowledge of the functioning of the Belgian legal system. He therefore proposed the following wording: "the Committee was concerned to learn whether the provisions of the Convention could be invoked in the Belgian courts".

74. Mr. ABOUL-NASR considered that it was not necessary to express a concern but simply to request the Belgian Government to provide the Committee with the information it needed. If the information requested was not provided, the Committee could then express its concern.

75. Mr. de GOUTTES, supported by Mr. CHIGOVERA and in the light of Mr. Aboul-Nasr's comments, suggested that paragraph 8 should be deleted.

76. Paragraph 8 was deleted.

Paragraph 9

77. Mr. ABOUL-NASR considered that it would be advisable to delete the words "covered by the 1948 Convention" following "the various types of genocide".

78. Paragraph 9, as orally amended, was adopted.

Paragraph 10

79. Mr. de GOUTTES proposed that in the first line the word "consistent" describing Belgian case law should be deleted.

80. Paragraph 10, as orally amended, was adopted.

Paragraph 11

81. Mr. de GOUTTES proposed that, in order to avoid repetition, the words "about the provisions" should be replaced by "on the provisions".

82. Paragraph 11, as orally amended, was adopted.

Paragraphs 12-16

83. Paragraphs 12-16 were adopted.

Paragraph 17

84. Mr. de GOUTTES proposed that the words "and the Convention to be directly invoked before the courts" should be added at the end of the paragraph.

85. Mr. ABOUL-NASR observed that if that recommendation was acted on, it would cause Belgium to incorporate in its domestic legislation all the provisions of the Convention, including some which were not of a legal nature.

86. Mr. de GOUTTES said that the recommendation concerned the incorporation of articles 4-7, and in particular article 6, in Belgian legislation. He proposed that the word "all" should be deleted.

87. Mr. ABOUL-NASR said that if the Committee made that recommendation with respect to Belgium, it must do so with respect to all other States parties.

88. Mr. CHIGOVERA said he saw no links between paragraph 17 and the other paragraphs of the draft concluding observations. The fact that the provisions of the Convention could be directly invoked was not in question in Belgium.

89. Mr. de GOUTTES proposed that the word "directly" should be deleted.

90. Paragraph 17, as orally amended, was adopted.

Paragraph 18

91. Mr. de GOUTTES pointed out that paragraph 18 should be read in conjunction with paragraph 9.

92. Mr. VALENCIA RODRIGUEZ said he had difficulty in understanding the relationship between the Convention and that paragraph, which might give the impression that acts related to genocide occurred in Belgium.

93. Mr. YUTZIS said he also had doubts about the purpose of that paragraph.

94. Mr. de GOUTTES, taking into account the observation by Mr. Valencia Rodriguez, proposed that in that paragraph the Committee should suggest to the State party that its Act of 23 March 1995 concerning the denial or approval of genocide should be expanded to cover the various types of genocide, as defined in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

95. Mr. SHERIFIS considered that it would be preferable to refer to the International Convention on the Elimination of All Forms of Racial Discrimination rather than another convention.

96. Mr. VALENCIA RODRIGUEZ said he was prepared to endorse Mr. de Gouttes' proposal but nevertheless considered that the reference to genocide was unrelated to the implementation of the Convention.

97. Mr. de GOUTTES observed that paragraph 18 stemmed directly from paragraph 9, which had been adopted in the section concerning principal subjects of concern, and recalled that the crimes of the Nazis had been mentioned by the Committee on several occasions. He proposed that the paragraph should read: "The Committee suggests to the State party that the Act of 23 March 1995 punishing the denial, minimization, justification or approval of the genocide committed by the German National Socialist regime during the Second World War should be expanded to cover the various types of genocide".

98. Mr. YUTZIS proposed that paragraphs 18 and 19 should be merged in a single paragraph reading: "The Committee recommends to the State party that it should ensure a greater degree of equity in the definition of the various types of genocide with the aim of more effective criminal prosecution of racist, negationist and discriminatory texts as such".

99. The CHAIRMAN proposed that the consideration of paragraph 18 should be suspended.

100. It was so decided.

The meeting rose at 1.05 p.m.